



COMMONWEALTH of VIRGINIA

CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

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May 5, 1999

Mr. Kenneth Eades
Office of Building and Zoning
P.O. Box 129
Heathsville, Virginia 22473

Dear Kenny:

Please enter the following comments from the Chesapeake Bay Local Assistance Department as part of the record regarding the proposed amendment to Article IV, Section 54-16, C'3 of the Northumbland County Code. We have reviewed the proposed changes and wish to voice our concern with them prior to the scheduled Board of Supervisor's meeting on May 13, 1999. While we understand the County's desire to streamline certain reviews, we feel that **if the amendments are adopted as proposed, it is our opinion that the amendments are inconsistent with the Chesapeake Bay Preservation Act and Chesapeake Bay Preservation Area Designation and Management Regulations. If the amendments are adopted as proposed, the Department will recommend to the Board that the County's Bay Act program be found inconsistent with the Act and Regulations.**


Our specific concern is the proposed change to paragraph C: "Any expansion or enlargement does not exceed fifty percent (50%) of the existing square footage and best management practices are implemented for any portion of the existing structure that is greater than fifty (50) feet into the R-PA." This proposed amendment would permit the expansion of a nonconforming structure further into the Resource Protection Area. Attached is a copy of a letter sent to the County regarding the Department's interpretation of permitted uses in the buffer area. As this letter indicates, the expansion of a structure that exists in the RPA is not Permitted by right and such expansions must be considered through an administrative or formal exception process as outlined in § 9VAC 10-20-160 of the Regulations. A **formal exception alone with the submission and review of a water quality impact assessment is required for the placement of any non-water dependent structure in the seaward 50 feet of the buffer area, including an expansion of an**

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existing structure.

The Department's interpretation on the expansion of nonconforming structures (i.e. in this case, houses that were built in the buffer prior to October 1, 1939) is that such expansions should not make the structure more nonconforming. This would mean that such expansions would not be permitted to encroach further into the buffer area, and in no case, should an administrative waiver be approved for an expansion that encroaches into the seaward 50 feet of the buffer. We expect that any Proposed expansions to existing nonconforming structures be evaluated on a case by case basis with the option of building a second story addition considered first and the option of building an addition in the landward 50 feet considered second. We also expect that any addition approved as an administrative waiver to be placed on the landward side of the existing structure or in an area that causes no further encroachment into the buffer.

We believe that the County's proposed changes are inconsistent with the Act and Regulation and should the amendments be adopted as currently proposed, the Department would recommend that the Chesapeake Bay Local Assistance Board find them inconsistent. We also noted during the review of this proposed amendment that we do not have a copy of current County ordinances. We would appreciate it if you could send us copies of the County's current land use ordinances. Should you have any questions about this letter, please call Shawn Smith or my staff at 1-800- 243-7229.

Sincerely,


Scott W. Kudlas
Chief of Local Program Review
and Planning Assistance

c: Shawn Smith
Michael Clower